

MINUTES

**MONTANA SENATE
59th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By **CHAIRMAN JEFF MANGAN**, on January 11, 2005 at 3:00 P.M., in Room 335 Capitol.

ROLL CALL

Members Present:

Sen. Jeff Mangan, Chairman (D)
Sen. John Esp (R)
Sen. Kelly Gebhardt (R)
Sen. Kim Gillan (D)
Sen. Bob Hawks (D)
Sen. Rick Laible (R)
Sen. Lynda Moss (D)
Sen. Jerry O'Neil (R)
Sen. Jim Shockley (R)
Sen. Carolyn Squires (D)
Sen. Mike Wheat (D)

Members Excused: None.

Members Absent: None.

Staff Present: Jennifer Kirby, Committee Secretary
Leanne Kurtz, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: SB 40, 1/4/2005; SB 140, 1/4/2005;
SB 129, 1/4/2005
Executive Action: SB 32; SB 20

SEN. JEFF MANGAN (D), SD 12, GREAT FALLS informed the committee that the Committee Secretary would take roll by sight. He told them that certain committee members would be in and out, as they had sponsored bills in other committees. **SEN. MANGAN** said that he would chair the first bill and then turn the gavel over to **SEN. BOB HAWKS (D), SD 33, BOZEMAN**.

HEARING ON SB 40

{Tape: 1; Side: A; Approx. Time Counter: 0.5}

Opening Statement by Sponsor:

SEN. DAN MCGEE (R), SD 29, opened the hearing on SB 40, Allow for petition by property owners to create RSID -- waive protest.

{Tape: 1; Side: A; Approx. Time Counter: 0.6 - 3.9}

SEN. DANIEL MCGEE (R), SD 29, LAUREL introduced himself to the committee. **SEN. MCGEE** explained his Bill, telling the committee that under current authorization decree, Rural Special Improvement Districts (RSID) are subject to certain guidelines. These rules include a mandatory petition process period and a period of time where objections to the RSID can be raised. Another condition for subdivision approval, at least in Yellowstone County, is the formation of an RSID. **SEN. MCGEE** then shared his personal experience with RSIDs. **SEN. MCGEE** had a minor subdivision project, five lots in Yellowstone County, and had formed a Homeowner's Association, but in order to do the subdivision project, **SEN. MCGEE** had to form an RSID. One of the provisions of an RSID also provided for the objection period of 30 days and the proposed subdivision had to be advertised. However, in this situation, the only person that would be part of the RSID was the subdivider, himself, so 100 percent of the people that would be part of the RSID were in favor of the subdivision. But **SEN. MCGEE** still would have to go through the RSID's objection and petition process. **SEN. MCGEE** told the committee that the Yellowstone County Commission had asked him to sponsor a bill that would deal with this issue. **SEN. MCGEE** told the committee that the Montana Association of Counties looked at the bill and thought that there were other situations where there is 100 percent participation in the RSID and the bill should apply to those situations as well. **SB 40** now has a clause that states that "the Board of County Commissioners may order and create a special improvement district upon the receipt of the petition to create a special improvement district that contains the consent of all the owners of the property to be included in

the district." **SEN. MCGEE** explained that this provision only applied when there was 100 percent participation.

Proponents' Testimony:

{Tape: 1; Side: A; Approx. Time Counter: 4.1 - 6.8}

Jim Reno, Yellowstone County Commissioner, informed the committee that he was the guy on the other end of the phone trying to explain what the rationale for this statute was and he thought that there was no rationale and that is why he supports **SB 40**. **Mr. Reno** feels that when there is 100 percent support for the RSID, a public hearing is unnecessary and asked the committee to do pass.

Harold Blattie, Assistant Director of the Montana Association of Counties, thanked **SEN. MCGEE** for bringing the bill forward and also broadening the scope of the bill on MACO's recommendation. **Mr. Blattie** contended that **SB 40** will save both time and money. **Mr. Blattie** then distributed the MACO resolution and commended **SEN. MCGEE** on his explanation of the resolution.

EXHIBIT(los07a01)

Anna Miller, Department of Natural Resources, expressed the Department of Natural Resources support for **SB 40**. **Ms. Miller** informed the committee that often a group of homeowners will come together to form an RSID because of a health risk, usually related to toxins in water systems. **Ms. Miller** said the department felt that **SB 40** is a good way to make the process quicker and easier, especially in these cases. **Ms. Miller** handed out sheets on the Department and what it does.

EXHIBIT(los07a02)

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses: None.

Closing by Sponsor:

{Tape: 1; Side: A; Approx. Time Counter: 7.3 - 7.5}

SEN. DANIEL MCGEE (R), SD 29, LAUREL thanked the committee for a good hearing and letting his bill be presented first.

SEN. MANGAN announced that the committee would take executive action on **SB 40** on Thursday, January 13th, 2005.

SEN. MANGAN handed the gavel over to **SEN. BOB HAWKS (D)**, **SD 33, BOZEMAN** to chair the next two hearings.

HEARING ON SB 140

{Tape: 1; Side: A; Approx. Time Counter: 8.5}

Opening Statement by Sponsor: **SEN. KELLY GEBHARDT (R)**, **SD 23**, opened the hearing on SB 140, Create an intrastate mutual aid system for political subdivisions of the state.

{Tape: 1; Side: A; Approx. Time Counter: 8.5 - 9.5}

SEN. GEBHARDT told the committee that his bill was brought forward at the request of the Department of Military Affairs and is designed to put in place additional mutual aid agreements. **SEN. GEBHARDT** commended the current mutual aid agreements for fire and police and some EMS but was disturbed by the lack of these agreements for other functions. **SEN. GEBHARDT** explained that this was the basic purpose of **SB 140**.

Proponents' Testimony:

{Tape: 1; Side: A; Approx. Time Counter: 9.5 - 23.3}

Dan McGowan, Montana Disaster and Emergency Services read his testimony into the record. **Mr. McGowan** handed out an information sheet to the committee members.

EXHIBIT(los07a03)

EXHIBIT(los07a04)

Mr. Harold Blattie, Assistant Director of Montana Association of Counties, acknowledged his organization's support of **SB 140**. **Mr. Blattie** also noted that emergencies and natural disasters have no respect for Political boundaries. **Mr. Blattie** shared that in his experience as a county commissioner, rancher, and volunteer fireman, the mutual aid agreements were invaluable. **Mr. Blattie** said "that when the chips are down and you need the help of your neighbors; you don't need bureaucracy getting in the way of the solution and solving the problem and [**SB 140**] goes a long way towards expanding our neighborhoods and partnerships."

Linda Stoll, Lobbyist for Missoula County, spoke on the behalf of Jane Ellis, Missoula County's Disaster and Emergency Services Director. **Ms. Stoll** said that Missoula County stands in support of **SB 140**. **Ms. Stoll** then read Jane Ellis's testimony into the record. "Missoula County is proof that mutual aid between counties works and is a viable part of our public safety system. Missoula county has been both a giver and a receiver of mutual aid several times over the last five years. A few examples include the Alberton train derailment, the Ivan Polinski standoff and 1998 Louisiana Pacific fire. These incidents have all been in the areas of law enforcement or the fire services and were delivered under section 10-3-209 and 10-3-703, these sections of Title Ten have served us very well and should not be altered or impacted. However, right now we do not have any statutory authority to provide or receive mutual aid in other disciplines, such as public health or public works. **SB 140** would provide us that additional tool to meet the needs of the public in the event of a 'big one'" **Ms. Stoll** noted that the following paragraph was a point of slight confusion as there had been an addition to **SB 140** of a new section 2 and Jane Ellis referenced the need for the new section in her testimony, which was written prior to the addition of the new section 2. **Ms. Stoll** resumed reading Ms. Ellis' testimony, " Missoula County urges the passage of Senate Bill 140 as long as it includes the new section two, the policy statement, which clarifies that it will have no effect on any existing mutual aid agreement or any request made under the existing mutual aid statutes. Thank you so much for the opportunity to support this bill."

SEN. GEBHARDT introduced and read the amendment into the record.

EXHIBIT(los07a05)

Paul Spengler, Lewis & Clark County Disaster and Emergency Services Coordinator, spoke on behalf of the Montana Disaster and Emergency Services Association in overwhelming support of **SB 140**. **Mr. Spengler** said that **SB 140** will facilitate mutual aid agreements across Montana and bring necessary resources to assist in disasters and emergencies.

Sally Buckles, President Montana Emergency Medical Services Association, called EMS mutual aid agreements a phone call for help. **Ms. Buckles** told the committee that the laws allow EMS to request or respond to requests for help without having to stop and get signatures on a mutual aid agreement. She informed the committee that eighty to eighty-five percent of the EMS providers in Montana were volunteers, and that it was difficult enough "to train and keep people certified without having to worry about the politics of helping our neighbors." **Ms. Buckles** urged do pass.

Jerry Shepard, Vice President of the Montana Volunteers Association, expressed their support of the bill with the amendment.

Bob Worthington, CEO of Montana Municipal Insurance Authority, spoke of the MMIA's long-standing support and assistance in setting up mutual aid agreements and contended that **SB 140** enhances the existing law and allows communities to gain more and better assistance from their neighboring communities.

Dave Mason, President of the Lewis & Clark Fire Council, informed the committee that the Council had participated in giving to and also received aid from communities across the state. **Mr. Mason** said that in their experience, mutual aid agreements are extremely effective and help save lives.

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses:

{Tape: 1; Side: A; Approx. Time Counter: 23.6 - 27.9}

SEN. MICHAEL WHEAT (D), SD 32, BOZEMAN, asked Sponsor **SEN. GEBHARDT** how worker's compensation was covered under **SB 140**. **SEN. GEBHARDT** answered that the responding agency covers their members, even if they are responding to an emergency outside of their area.

SEN. WHEAT asked if this was worked out beforehand. **SEN. GEBHARDT** responded that it was negotiated and established on the political level, not on the level of the first responder. However, the way that worker's compensation would work under a mutual aid agreement was laid out in the law.

SEN. JOHN ESP (R), SD 31, BIG TIMBER, asked **Mr. Worthington** if he represented an insurance company. **Mr. Worthington** explained that he Represented the MMIA, a self insurance that insured cities and towns. **SEN. ESP** asked if they self-insure for liability. **Mr. Worthington** responded that they did. **SEN. ESP** inquired, regarding the clause of **SB 140** that grants immunity to the organization that responds to a call for help, if that section bothers the MMIA at all. **Mr. Worthington** replied that it was not a concern to them. He said that there are current mutual aid statutes and **SB 140** was consistent with those laws.

Closing by Sponsor:

SEN. GEBHARDT urged a do pass with the amendment to **SB 140**.

SEN. MANGAN announced that the committee would take executive action on **SB 140** on Thursday, January 13th, 2005.

SEN. GEBHARDT left the committee.

SEN. RICK LAIBLE, SD 44, VICTOR, left the committee

HEARING ON SB 129

Opening Statement by Sponsor: **SEN. MIKE WHEAT (D), SD 32,** opened the hearing on SB 129, State aid for public library districts.

{Tape: 1; Side: B; Approx. Time Counter: 1.2 - 6.5}

SEN. WHEAT called his bill "pretty straightforward" and noted that there would be a small amendment but that it would be dealt with in executive action. **SEN. WHEAT** explained that his bill's goal was to allow public libraries and public library districts to merge for a number of purposes. Under current laws, public libraries receive state aid but not public library districts. **SB 129** seeks to allow the districts to receive funds as well. **SEN. WHEAT** directed the committee's attention to Section 5, which allows public libraries to consolidate with public library districts. The bill allows the governing body of the county to notify the governing city or county body that established the library that the territory served by the library is within the public library district boundary. The governing body that controls the library then has the option of staying within the public library district or opting out. **SEN. WHEAT** referenced Section 6, which allows the board of the public library to own and hold title to the properties used for library purposes. **SEN. WHEAT** looked at Sections 7 and 8, which authorizes the libraries to establish a library depreciation reserve fund, the money within the fund can be used for the replacement and acquisition of property by the library, capital improvements, and to purchase and maintain equipment for the library. Money for the library depreciation reserve fund are funds that were collected for library district purchases in any year and that had not been expended by the end of the year. **SEN. WHEAT** discussed Section 9, which covers how the money in the library depreciation reserve fund would be used. **SEN. WHEAT** reserved the right to close.

Proponents' Testimony:

{Tape: 1; Side: B; Approx. Time Counter: 6.7 - 20.5}

Darlene Staffeldt, State Librarian, read her testimony into the record.

EXHIBIT(los07a06)

Jim Smith, Montana Library Association, discussed how hard the association worked in 2001 to pass the Library District Bill. **Mr. Smith** said they discovered a few flaws in the 2001 law which created difficulties for libraries that tried to implement the law. **Mr. Smith** recognized **Marilyn Trosper,** who had experience with the very problems that **SB 129** addresses. He also recognized **Bob Cooper,** who would read the testimony of **Bridgett Johnson,** the librarian of the Lewistown Library, who experienced difficulties as well. **Mr. Smith** professed to not be an expert on libraries but said he would be happy to get whoever was needed to answer the committee's questions.

Marilyn Trosper, Director of Polson City Library, read her testimony into the record.

EXHIBIT(los07a07)

Bob Cooper, Montana State Library, read the testimony of **Bridgett Johnson, Director of Lewistown Public Library,** into the record.

EXHIBIT(los07a08)

Harold Blattie, Montana Association of Counties, rose in support of **SB 129.** **Mr. Blattie** talked about how counties find themselves owning the library property because there is not any other option under current code. **Mr. Blattie** noted what he believed was a drafting error in Section 10 on page 6, which reads "meant to be codified as a part of Title 27", **Mr. Blattie** believed it is intended to be Title 22.

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses:

{Tape: 1; Side: B; Approx. Time Counter: 20.7 - 30}

SEN. JERRY O'NEIL (R), SD 3, COLUMBIA FALLS asked **SEN. WHEAT** if the libraries would get better funding under **SB 129.** **SEN. WHEAT** responded that **SB 129** would allow libraries to take their funding issues to the voters, rather than relying on city or county commissioners. **SEN. O'NEIL** asked if the money would come from the

county or city. **SEN. WHEAT** answered that it would come from the people living in the district.

SEN. KIM GILLAN (D), SD 24, BILLINGS asked **SEN. WHEAT** to take note of the 2001 law, which specifically excluded the territory served by the public library and wanted to know what had changed from 2001 to 2004, which specifically reverses the 2001 statute. **SEN. WHEAT** said he did not know why they were specifically excluded in 2001. However, **SEN. WHEAT** responded that **SB 129** gave flexibility and the ability for the city to opt in or opt out of the library districts. **SEN. WHEAT** deferred to **Ms. Staffeldt**. **Ms. Staffeldt** informed the committee that it was never the intention that they be excluded but there was a lot of language change at the last minute and the section that **SEN. GILLAN** referred to may have been overlooked. The intention was to give a library that was already formed the option to join in or not.

SEN. ESP questioned **SEN. WHEAT** as to what would change in regards to funding under **SB 129**. **SEN. WHEAT** explained again that currently library funding comes from line items in city or county budgets but with the formation of a district, the funding for the library would be submitted to the voters. **SEN. WHEAT** compared it to a special improvement district levy, which would be assessed against property.

SEN. ESP wanted to know if the reason **SB 129** allowed a larger voter base was to gain more funding, since the districts expand the support base beyond just a city or county. **SEN. WHEAT** said that he thought it did, and directed the committee's attention to the testimony of the librarians who discussed the number of patrons they had from outside the city or county. **SEN. WHEAT** called **SB 129** "an effort to try to incorporate all the people that use the library so all of those people can participate in paying the cost."

SEN. ESP questioned **Ms. Trosper** as to why she had problems convincing people to form a library district and fund the library. **Ms. Trosper** explained that some of the libraries in the county felt they had adequate funding and wished to continue to manage on their own. She told the committee that the funding for the Polson Library was different because it was entirely funded by the city through discretionary money out of the general fund, so commissioners were able to disperse money as they saw fit. **Ms. Trosper** felt this did not always meet the needs of the library and that the Polson library was in a precarious position. **SEN. ESP** asked if the other libraries received a levy and Polson Library did not. **Ms. Trosper** affirmed this.

SEN. ESP asked **Mr. Blattie** if libraries formed a district and went to the voters for a levy and the voters supported it, would it come under the limits of 15-10-420, MCA. **Mr. Blattie** replied that it would, up to the value limits.

{Tape: 2; Side: A; Approx. Time Counter: 0.1 - 3.3}

SEN. GILLAN left the committee

SEN. ESP expressed his concern that somehow the district board would take authority away from the commissioners and would take flexibility away from the budget. **Mr. Blattie** responded that MACO did not see that as a concern and that it would be logical that if the voters endorsed a mill levy for the library, it would be tied to the district. If there was not a vote, the library district would continue to function as they do currently and be dependent on the city or county for funding and so subject to commissioner authority.

SEN. ESP asked whether **Mr. Blattie** knew the answer to **SEN. GILLAN's** question about the 2001 exclusion. **Mr. Blattie** answered that he did not.

Closing by Sponsor:

{Tape: 2; Side: A; Approx. Time Counter: 3.4 - 4.8}

SEN. WHEAT told the committee that he did not understand everything about the bill and how it worked but that libraries were a good cause and deserved the committee's support. **SEN. WHEAT** also noted that the librarians supported the bill and the committee should take their pleas for assistance and their opinions into account. **SEN. WHEAT** discussed the amendments to be handed out during executive action. **SEN. WHEAT** urged a do pass and thanked the committee.

SEN. MANGAN announced that the committee would take executive action on **SB 129** on Thursday, January 13th, 2005.

SEN. MANGAN discussed some committee business. He went over the upcoming schedule of hearings with the committee. **SEN. MANGAN** also informed the committee that **SEN. HAWK**, **SEN. LAIBLE**, and **SEN. WHEAT** would be chairing on various days to accommodate **SEN. MANGAN's** sponsored bills within the committee.

EXECUTIVE ACTION ON SB 32

{Tape: 2; Side: A; Approx. Time Counter: 8.6}

Motion: SEN. ESP moved that SB 32 DO PASS.

Motion: SEN. ESP moved that SB 32 BE AMENDED.

EXHIBIT(los07a09)

Discussion:

SEN. ESP explained the amendment. His intention was to better define what was and was not minor repair. SEN. WHEAT asked if SEN. ESP consulted the bill's sponsor regarding the amendment. SEN. ESP confessed that he had not but recommended asking Ms. Jani McCall, representing the city of Billings. Ms. McCall said she discussed the amendment with the sponsor, SEN. BRENT CROMLEY (D), SD 25, BILLINGS, as well as proponent, David Mumford, and the Billings City Administrator. Ms. McCall said they were all in agreement with the amendment. SEN. HAWKS wanted to know how the city would interpret "six feet of sidewalk", whether it was six feet of continuous sidewalk or six feet total within that one-hundred foot stretch. SEN. ESP responded that it was his reading that "replacement" was complete replacement, not just repair to the sidewalk. SEN. HAWKS clarified that the distinction was minor surface repair and actual replacement. SEN. ESP confirmed that was his understanding.

Vote: Motion carried unanimously.

Motion: SEN. ESP moved that SB 32 DO PASS AS AMENDED.

Vote: Motion that SB 32 DO PASS AS AMENDED carried unanimously. SEN. RICK LAIBLE (R), SD 44, VICTOR votes aye by Proxy. SEN. KELLY GEBHARDT (R), SD 23, ROUNDUP votes aye by Proxy. SEN. KIM GILLAN (D), SD 24, BILLINGS votes aye by Proxy.
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EXECUTIVE ACTION ON SB 20

{Tape: 2; Side: A; Approx. Time Counter: 14.4}

Motion: SEN. ESP moved that SB 20 DO PASS.

Motion: SEN. MANGAN moved that SB 20 BE AMENDED.

EXHIBIT(los07a10)

Discussion: Leanne Kurtz, Legislative Services, noted that this amendment replaced the amendment that was handed out at the hearing. Sarah Bond, City of Cut Bank, said that she and Jack Stults of the Natural Resources and Conservation Department

reviewed the bill and found that the clause for municipal use had already been defined as needed. She felt that the amendment cleaned up and made the bill better. **SEN. MANGAN** said that the sponsor was in agreement with the amendment.

Vote: Motion carried unanimously.

Motion/Vote: SEN. ESP moved that SB 20 DO PASS AS AMENDED.

Motion carried unanimously. SEN. KELLY GEBHARDT (R), SD 23, ROUNDUP votes aye by proxy. SEN. KIM GILLAN (D), SD 24, BILLINGS votes aye by proxy. SEN. RICK LAIBLE (R), SD 44, VICTOR votes aye by proxy.

ADJOURNMENT

Adjournment: 4:16 P.M.

SEN. JEFF MANGAN, Chairman

JENNIFER KIRBY, Secretary

JM/jk

Additional Exhibits:

EXHIBIT ([los07aad0.PDF](#))